

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

LASHAUNA ANTONETTE FLEMONS

PLAINTIFF

v.

Civil No. 06-2029

SGT. ROBERT CROUCH;
DEPUTY ERICA PATE;
DEPUTY K. HALSEY;
CAPT. CONGER; and
LT. JACKSON

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff, an inmate of the Arkansas Department of Correction, filed this civil rights action on March 7, 2006. She proceeds pro se and *in forma pauperis*.

On August 14, 2006, defendants filed a motion to dismiss pursuant to Rule 41(b) of the Federal Rules of Civil Procedure (Doc. 22). On May 23, 2006, defendants indicated they propounded interrogatories and requests for production to the plaintiff. On July 5, 2006, they sent correspondence to the plaintiff requesting the responses within ten days and stating a motion to compel would be filed if the responses were not received.

On July 7, 2006, the plaintiff filed a motion for an extension of time to respond to the interrogatories and requests for production of documents. The motion was granted and plaintiff given until August 7, 2006, to respond to the discovery requests. Defendants were given until September 11, 2006, to file a motion for summary judgment.

As of August 14, 2006, plaintiff had not responded to the discovery requests as ordered by the court. On August 17, 2005, a show cause order was entered (Doc. 24). Plaintiff was given until August 31, 2006, to show cause why this action should not be dismissed based on her failure to comply with an order of the court and her failure to respond to discovery requests.

Plaintiff was advised that failure to respond to this show cause order might result in the dismissal of the case.

No response to the show cause order has been filed by plaintiff. On September 8, 2006, defendants' filed a second motion to dismiss (Doc. 25). In the motion to dismiss, defendants point out plaintiff has failed to respond to the discovery requests and has failed to respond to the show cause order.

The court notes that no mail sent to the plaintiff by the court has been returned as undeliverable. Plaintiff has not requested a further extension of time to respond to the discovery requests and has not requested additional time to respond to the show cause order.

I therefore recommend that the defendants' motion to dismiss be granted. This action should be dismissed based on plaintiff's failure to obey the orders of the court and her failure to prosecute this action. Fed. R. Civ. P. 41.

The parties have ten days from receipt of the report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 13th day of September 2006.

/s/ Beverly Stites Jones
UNITED STATES MAGISTRATE JUDGE